



Federal Communications Commission

DA 02-3362

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of

Amendment of Section 73.202(b),
Table of Allotments.
FM Broadcast Stations.
(Cherokee, Oklahoma)

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MM Docket No. 01-291
RM-10301

REPORT AND ORDER
(Proceeding Terminated)

Adopted: December 4, 2002

Released: December 9, 2002

By the Assistant Chief, Audio Division:

1. Before the Audio Division for consideration is a **Notice of Proposed Rule Making**¹ which includes the captioned proceeding. As indicated below, the Notice sets forth five separate proposals to allot an FM channel to five specific communities. Maurice Salsa ("Salsa" or "Petitioner") requests the allotment of Channel 237C2 to Cherokee, Oklahoma, as that community's first local aural transmission service. Petitioner filed responsive comments in response to the **Notice**, followed by a motion to dismiss the proposal. Comments and a counterproposal were filed by Robert Fabian ("Fabian"), requesting the allotment of Channel 237A to Cherokee instead of Channel 237C2, as well as the allotment of Channel 237A at Fort Supply, Oklahoma. Fabian subsequently filed a motion to dismiss his counterproposal.² Chisholm Trail Broadcasting Co. ("Chisholm") also filed comments and a counterproposal, as well as reply comments.³ No other comments were received.

2. As stated in the Appendix to the **Notice**, a showing of continuing interest is required before a channel will be allotted. It is the Commission's policy to refrain from making an allotment to a community absent an expression of interest. In this proceeding, since both Salsa and Fabian each have stated they no longer intend to pursue their allotment requests, we will dismiss the petition for rule making and grant

¹ See *Cherokee, OK*, MM Docket No. 01-291; *Ballinger, TX*, MM Docket No. 01-292; *Crowell, Texas*, MM Docket No. 01-293; *Eldorado, TX*, MM Docket No. 01-294; and *Jayton, TX*, MM Docket No. 01-295, 16 FCC Rcd 18078 (M.M. Bur. 2001) ("Notice"). The proposals set forth in the multiple **Notice** were not mutually exclusive with each other. A separate **Report and Order** has been issued in the Ballinger, TX proceeding, (MM Docket No. 01-292), 17 FCC 2d 12804(2002), and in the Eldorado, TX proceeding, (MM Docket No. 01-294), 17 FCC 2d 12806 (2001). In light of developments that have occurred in the Cherokee, OK proceeding, as noted *infra*, and to accommodate a pending modification application for Station KXLS at Lahoma, OK, we are deciding MM Docket No. 01-291 separately from the two remaining docketed proceedings contained in the **Notice**.

² In view of the subsequent withdrawal of Fabian's counterproposal, it was not placed on public notice.

³ Chisholm requested a slight alteration to the reference coordinates for the proposed allotment of Channel 237C2 at Cherokee, OK, to accommodate its modification application for Station KXLS at Lahoma, OK. However, in light of Salsa's motion to dismiss its proposal, the conflict with the Lahoma application has been eliminated. Therefore, Chisholm's counterproposal was not placed on public notice.

Fabian's request to withdraw its counterproposal.'

3. Salsa and Fabian each filed comments consistent with the requirements of Section 1.420(j) of the Commission's Rules, stating that they did not receive any consideration for the withdrawal of their interest in this proceeding.

4. In view of the above, **IT IS ORDERED**, That the petition for rule making filed by Maurice Salsa (RM-10301), requesting the allotment of Channel 237C2 to Cherokee, Oklahoma, **IS DISMISSED**.

5. **IT IS FURTHER ORDERED**, That the counterproposal filed by Robert Fabian requesting the allotment of Channel 237A to Cherokee instead of Channel 237C2, and the allotment of Channel 237A at Fort Supply, Oklahoma, **IS DISMISSED**.

6. For further information concerning this proceeding, contact Nancy Joyner, Media Bureau.
(202) 418-2180

FEDERAL COMMUNICATIONS COMMISSION

John A. Karousos
Assistant Chief, Audio Division
Media Bureau

⁴ See, e.g., *Joshua Tree, California*, 4 FCC Rcd 3801 (1989); *Bridport, Vermont*, 5 FCC Rcd 6172 (1990); *Alexander City, Alabama and West Point, Georgia*, 9 FCC Rcd 2823 (1994), and *Notice, Appendix* at para. 2